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Paper 7
Filed 23 July 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DANIEL J. PARKE and DAVID A. WIEBELHAUS
Junior Party
(Application 11/250,543),

V.

DAVID WIEKHORST, SPRING STUTZMAN,
JEFF STUTZMAN, SCOTT JUENGST, FRED JOHNSTON,
JIM L. DICKMAN and ROBERT KENNY
Senior Party
(Patent 7,238,886).

Patent Interference No. 105,640 (SCM)
(Technology Center 2800)

1 Judgment –Bd.R. 127(b)(4)

2 *Before: JAMESON LEE, SALLY C. MEDLEY, and MICHAEL P. TIERNEY,*
3 *Administrative Patent Judges.*

4
5 MEDLEY, *Administrative Patent Judge.*

6 A. Introduction

7 Interference 105,640 was declared on 24 June 2008. No papers have been
8 filed on behalf of the junior party Parke as required by Board Rules and the

1 Standing Order.¹ Moreover, Parke has not timely filed a response to the Order to
2 Show Cause (Paper 3).

3 On 22 July 2008, Board personnel, Sonja Despertt, telephoned Mr. Scott
4 Lowe, counsel of record for Parke to inquire why Parke had not filed their initial
5 papers and a response to the Order to Show Cause. Mr. Lowe informed Ms.
6 Despertt that Parke will not file any papers or respond in any way to the Order to
7 Show Cause. Mr. Lowe's representation that Parke will not respond to the Order
8 to Show Cause is an abandonment of the contest. An abandonment of the contest
9 is construed as a request for adverse judgment. Bd. R. 127(b)(4).

10 Accordingly, it is

11 **ORDERED** that judgment be entered against Parke for count 1 (Paper
12 1 at 4);

13 **FURTHER ORDERED** that claims 67-73 of Parke's involved
14 application are FINALLY REFUSED, 35 U.S.C. 135(a); and

15 **FURTHER ORDERED** that a copy of this judgment be entered in
16 the administrative records of the involved Parke application and Wiekhorst patent.

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1 Within 14 days of the date of declaration, the parties must file:

- (1) notice of lead and backup counsel (Bd.R. 108(b))
- (2) a clean copy of claims (Bd.R. 110(a))
- (3) notice of real party-in-interest (SO ¶ 8.1)
- (4) notice of related proceedings (SO ¶ 8.2)
- (5) a request for file copies (SO ¶ 109)

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